



# University of Hawaii at Manoa

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## HB 1504 COASTAL ZONE MANAGEMENT

Statement for  
House Committee on  
Judiciary  
Public Hearing - March 10, 1987

By  
Jacquelin Miller, Environmental Center  
Ray Tabata, Sea Grant  
Kem Lowry, Urban and Regional Planning

HB 1504 would require that appeals in contested case proceedings, of Special Management Area (SMA) permit decisions, under HRS 205A, bypass lower courts and go directly to the supreme court.

The statement on this bill does not represent an institutional position of the University of Hawaii.

The Environmental Center submitted testimony on a companion bill, SB 1759, calling attention to the apparent selective special interest nature of this legislation and questioned the rationale for the reduction in judicial review that would result. A copy of this previous statement is attached for your information.

We are particularly concerned that the appeal procedure, as presently drafted, will apply to all decisions or orders of the county planning commissions or county council, in a contested case, as defined in Chapter 91. This would presumably include, but not be limited to, appeals of decisions or orders in contested case hearings under HRS 343 the Environmental Impact Statement statute.

While we recognize the need to reduce unnecessary and unwarranted time delays and attendant costs of development in the shoreline area, we are nevertheless deeply concerned that the amendments proposed will not allow an adequate opportunity for the fair and impartial evaluation of the contested issues. Provision for appeals to lower courts is widely provided in our system of government, to assure that a full and substantiated record of information is gathered upon which an informed decision can then be

made. Cases developed on the basis of a contested case hearing, without the benefit of these lower court hearings, are likely to be ill defined and poorly developed and the resulting decisions are more likely to be based on an inadequate information base.

The right to appeal through the courts in accordance with established procedures under Chapter 91 should not, in our opinion, be circumvented by selective interest legislation as is proposed in HB 1504. If such bypassing of the lower courts is permitted for appeals of decisions in the Social Management Area one may well ask why not in other civil cases?

Attachment